BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2009-479-WS - ORDER NO. 2010-375

MAY 17, 2010

IN RE:	Application of United Utility Companies, Incorporated for Adjustment of Rates and Charges and Modification to Certain Terms and Conditions for the Provision of Water and Sewer Service	))))))	ORDER RULING ON PROPOSED WATER AND WASTEWATER RATES AND CHARGES

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the Application of United Utility Companies, Inc. ("UUCI" or "the Company") for an increase in rates and charges for the provision of water and sewer services and modifications to certain terms and conditions for the provision of water and sewer service, which was filed November 17, 2009. UUCI is a National Association of Regulatory Utility Commissioners ("NARUC") Class C water and a Class B wastewater utility. UUCI's service area includes portions of Anderson, Cherokee, Greenville, Greenwood, Spartanburg, and Union counties. UUCI provides water supply and distribution services to 97 single-family equivalent units. Per the Company's application, wastewater collection and treatment services are provided to 1,657 residential and commercial customers.

The Application was filed pursuant to S.C. Code Ann. § 58-5-240 (Supp. 2009) and 26 S.C. Code Ann. Regs. 103-512.4.A and 103-712.4.A (1976, as amended). By

letter dated November 24, 2009, the Commission's Clerk's Office instructed UUCI to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the area affected by UUCI's Application. The Notice of Filing described the nature of the Application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings as a party of record. In the same letter, the Commission also instructed UUCI to notify directly, by U.S. Mail, each customer affected by the Application by mailing each customer a copy of the Notice of Filing. UUCI filed an Affidavit of Publication demonstrating that the Notice of Filing had been duly published and provided a letter certifying that it complied with the instructions of the Commission's Clerk's Office to mail a copy of the Notice of Filing to all customers.

North Greenville University ("NGU" or "Intervenor") timely filed a Petition to Intervene in this matter. Ms. Janet P. Marks of 358 Fairwood Blvd., Union, SC 29379, intervened *pro se,* but later at the hearing held on March 23, 2010, decided to withdraw her intervention. (Tr. 5 at 300). Pursuant to S.C. Code Ann. § 58-4-10(B)(Supp. 2009), the South Carolina Office of Regulatory Staff ("ORS") is a party of record in this proceeding.

The Commission appointed B. Randall Dong, Esquire, as Hearing Officer in Order No. 2010-123 to dispose of procedural and evidentiary matters. The Company filed a Motion to Strike portions of NGU's Petition to Intervene on January 25, 2010. In his ruling dated March 4, 2010, Hearing Officer Dong granted the motion to strike paragraphs 5, 7, and 8, as the contract-based allegations are barred by *res judicata*, and

NGU has expressly abandoned any effort to seek relief on the basis of any arguments it may have with regard to the terms of its contract with the Company. The Company filed a Motion to Strike portions of Dr. James Epting's testimony on March 3, 2010, on the basis that they also constitute an effort by NGU to re-litigate previously rejected contract-based claims. Hearing Officer Dong ruled that in light of NGU's express disclaimer of any re-litigation of the prior contract-based claims, it was unnecessary to strike any portion of Dr. Epting's pre-filed testimony at the time.

The Commission held four local public hearings in this matter at the request of the customers of UUCI. The Commission issued Order Nos. 2010-32, 2010-80, 2010-118 and 2010-180 granting requests for local public hearings and ordered the Commission Staff to set public hearings in Greenville[1], Piedmont, Gaffney, and Anderson, South Carolina. Under these Orders, public hearings were set and noticed by the Commission, and the Company provided affidavits certifying that it had provided notice to its customers via U.S. Mail of the date, time, and location of the local public hearings. The Commission received public comment from customers of the Company at these four public hearings.

At each local public hearing, the Company requested a continuing objection to the admission of any customer testimony consisting of unsubstantiated complaints regarding customer service, quality of service, or customer relations issues. Counsel for UUCI argued against receipt and reliance upon testimony that is not substantiated by data or scientific criteria. The Company cited Patton v. Public Service Commission, 280 S.C.

[1] The hearing for Greenville, South Carolina was held in Simpsonville, South Carolina at Hillcrest High School.

288, 312 S.E.2d 257 (1984), the order of the Court of Common Pleas in Tega Cay Water Service, Inc. v. S.C.P.S.C., C/A No. 97-CP-40-0923, September 25, 1998, and the Commission's Order No. 1999-191, Docket No. 96-137-WS, dated March 16, 1999, in support of its objection. ORS and NGU opposed the Company's objection on the basis that the purpose of the local public hearings is to obtain information from the customers as to the quality of service being rendered and to identify any issues of concern that are related to the instant Application. ORS requested that the Commission require the Company to identify the speaker and the portion of the customer testimony in the hearing transcript that is subject to the Company's continuing objection as well as the basis for the Company's objection. The Commission did not issue a ruling on the continuing objection during the local public hearings but, as requested by the Company, withheld its ruling. On April 8, 2010, the Company filed a letter objecting to the admission of certain portions of the testimony of witnesses Conover, Wyatt, Stamoulis, Bailey, Kassab, Odom, Kindig, and Marion and to the admission of Exhibits 2(A)-2(I), 4(A), 4(B), 5, and 11.

Between the filing of the Company's Application and the date of the hearing, ORS made on-site investigations of UUCI's facilities, examined UUCI's books and records, and gathered detailed information concerning UUCI's operations.

On March 23, 2010, and March 24, 2010, a hearing concerning the matters asserted in UUCI's Application was held in the Commission's hearing room located at Synergy Business Park, 101 Executive Center Drive, Saluda Building, Columbia, SC. The Commission, with Chairman Fleming presiding, heard the matter of UUCI's

Application. John M. S. Hoefer, Esquire, and Benjamin P. Mustian, Esquire, represented UUCI. Nanette S. Edwards, Esquire, represented the Office of Regulatory Staff. Duke K. McCall Jr., Esquire, and William H. Jordan, Esquire, represented NGU. David Butler, Esquire, served as legal counsel to the Commission.

At the outset of the hearing, the Commission heard testimony from public witnesses. A total of five public witnesses testified at the hearing. UUCI presented the testimony of Pauline M. Ahern (Principal of AUS Consultants), Bruce T. Haas (Regional Director of Operations for United Utility Companies, Inc.), Lena Georgiev (Manager of Regulatory Affairs at Utilities, Inc.[2]), John D. Williams (Director of Governmental Affairs of Utilities, Inc.), and Steven M. Lubertozzi (Director of Regulatory Accounting at Utilities, Inc.). Additionally, the Company presented Ms. Karen Sasic (Manager of Customer Service) as a rebuttal witness to the testimony the Commission received from customers of UUCI.

NGU presented the direct and surrebuttal testimony of Dr. James Epting (President, North Greenville University).

ORS presented the testimony of Dr. Douglas H. Carlisle regarding his opinion concerning a fair rate of return on equity ("ROE") of UUCI and the direct and surrebuttal testimony of Christina A. Stutz and Willie J. Morgan. Ms. Stutz testified concerning ORS's examinations of the Application and UUCI's books and records, as well as the subsequent accounting and pro forma adjustments recommended by ORS. Mr. Morgan's direct and surrebuttal testimony focused on UUCI's compliance with Commission rules

[2] UUCI is a subsidiary of Utilities, Inc.

and regulations, ORS's business audit of UUCI's water and wastewater systems, test-year and proposed revenue, and performance bond requirements.

II. UUCI OBJECTION TO CUSTOMER TESTIMONY

The Commission heard from the public at four local public hearings. At the first public hearing on February 23, 2010, UUCI raised an objection to the Commission receiving and relying upon customer testimony, documents, and related exhibits "consisting of unsubstantiated complaints regarding customer service, quality of service, or customer relation issues." The Company renewed this objection at the hearings on February 25, 2010, March 2, 2010, and March 8, 2010. (Tr. 1 at 8-9; Tr. 2 at 112-113; Tr. 3 at 215-216; and Tr. 4 at 238-239). As the basis for its objection, UUCI claims such testimony is not substantiated by data or scientific criteria as required by law and cannot be admitted and relied upon. In support of these arguments, UUCI cites Patton v. Public Service Commission, 280 S.C. 288, 312 S.E.2d 257 (1984), the Order in the Court of Common Pleas in Tega Cay Water Service v. S.C.P.S.C., C/A No. 97-CP-40-0923 (September 25, 1998), and the Commission's Order No. 1999-191 in Application of Tega Cay Water Service, Inc., Docket No. 96-137-WS.

However, these cases do not support UUCI's general argument that the Commission has denied the Company due process, nor do the cases stand for the proposition that the Commission's complaint process was unlawfully circumvented when the Commission heard public testimony regarding customer service complaints. The Company's objection is overruled. The Company had the opportunity to file responses to its customers' testimony, and it did so. UUCI Letter (April 8, 2010); see also Haas Direct

Testimony. (Tr. 5 at 467; Tr. 6 at 822; Tr. 6 at 758). In addition, the Company had the opportunity to cross-examine witnesses and took advantage of that opportunity. (Tr. 1 at 21, 42, 52, 77, 85, 95, 51, 65, 76; Tr. 2 at 128, 136, 158; Tr. 3 at 220, 225, 227; Tr. 4 at 248, 251, 280).

The Commission ordered evening public hearings held in this case to provide a forum at a time and place convenient for customers to address matters related to the Company's Application for a rate increase. Nothing in the Commission's statutory authority or regulations indicates that the customer complaint-filing process is the exclusive vehicle for raising issues regarding a company's quality of service. See 26 S.C. Code Ann. Regs. 103-824 (Supp. 2009).

ORS asserted that the challenged customer testimony is admissible for the purposes of the local public hearings. (Tr. 1 at 9-10; Tr. 2 at 112-113; Tr. 3 at 216-217; Tr. 4 at 240). ORS also argues that the cases cited by UUCI fail to support its grounds for objection. Id. In addition, ORS requested that UUCI submit letters to the Commission specifying objectionable opinions of public testimony and the specific reasons for its opposition.

The Commission holds that public testimony and exhibits may be admitted into the record of these proceedings. The cases cited by UUCI merely stand for the principle that, while customer service is a factor to be considered in determining a reasonable rate of return in a rate proceeding, a reduction in rates based on poor quality of service must be supported by substantial evidence in the record, must not be confiscatory, and must remain within a fair and reasonable range. Patton, 280 S.C. at 293, 312 S.E.2d at 260

("the Commission must be allowed the discretion of imposing reasonable requirements on its jurisdictional utilities to insure that adequate and proper service will be rendered to the customers of the utility companies.")

III. JURISDICTION

By statute, the Commission is vested with jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the duty, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, observed and followed by every public utility in this State. S.C. Code Ann. § 58-5-210 (1976). S.C. Code Ann. §58-5-290 (1976) vests the Commission with the authority to change the rates of a "public utility" whenever the Commission finds, after hearing, that such rates are "unjust, unreasonable, noncompensatory, inadequate, discriminatory, or preferential or in any wise in violation of any provision of law." A public utility is defined by S.C. Code Ann. §58-5-10(4) (Supp. 2009) as including "every corporation and person furnishing or supplying in any manner heat (other than by means of electricity), water, sewerage collection, sewerage disposal and street railway service, or any of them, to the public, or any portion thereof, for compensation." Section 58-5-290 also provides that when the Commission determines that a utility's rates are unlawful, the Commission shall determine and fix by order the "just and reasonable" rates to be thereafter charged by the public utility. The Commission finds and concludes in this proceeding that the Company is a public utility under the provisions of S.C. Code Ann. §58-5-10(4) (Supp. 2009).

IV. RATEMAKING METHODOLOGY

Under the guidelines established in the decisions of Bluefield Water Works and Improving Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923), and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944), this Commission does not ensure through regulation that a utility will produce net revenues. As the United States Supreme Court noted in Hope Natural Gas, the utility "has no constitutional rights to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures." However, employing fair and enlightened judgment and giving consideration to all relevant facts, the Commission should establish rates which will produce revenues "sufficient to assure confidence in the financial soundness of the utility and . . . that are adequate under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." Bluefield, 262 U.S. at 692-693.

Neither §58-5-290 nor any other statute prescribes a particular method to be utilized by the Commission to determine the lawfulness of the rates of a public utility. For ratemaking purposes, this Commission examines the relationships between expenses, revenues, and investment in a historic test period because such examination provides a constant and reliable factor upon which calculations can be made to formulate the basis for determining just and reasonable rates. This method was recognized and approved by the Supreme Court for ratemaking purposes involving telephone companies in So. Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n of S.C., 270 S.C. 590, 244 S.E.2d 278 (1978).

The historic test period generally utilized is the most recent twelve-month period for which reasonably complete financial data is available and is referred to as the "test year" period. In this proceeding, the Commission concludes that the appropriate test year period is the twelve month period ending December 31, 2008. The test year is contained in the Application of UUCI as well as the testimony and exhibits of the parties' witnesses in this case.

The establishment of a test year is a fundamental principle of the ratemaking process. Heater of Seabrook v. Pub. Serv. Comm'n of S.C., 324 S.C. 56, 478 S.E. 2d 826 (1996). The establishment of a test year is used to calculate what a utility's expenses and revenues are for the purposes of determining the reasonableness of a rate. The test year is established to provide a basis for making the most accurate forecast of the utility's rate base, revenues, and expenses in the near future when the prescribed rates are in effect. Porter v. Pub. Serv. Comm'n of S.C., 328 S.C. 222, 493 S.E.2d 92 (1997). It also provides the Commission with a basis for estimating future revenue requirements.

This Commission allows certain accounting and pro forma adjustments to be made to the actual test year figures. Adjustments are made for: (1) items occurring in the test year that are not subject to recur in the future; (2) items of an extraordinary nature whose effects must be annualized or normalized to reflect properly their impact; and (3) other items which should be included or excluded for ratemaking purposes. Adjustments are also made for "known and measurable changes" in expenses, revenues and investments occurring after the test year. So. Bell Tel. & Tel. Co., 270 S.C. at 602, 244 S.E.2d at 284.

In order to establish just and reasonable rates the Commission must be able to properly determine the revenue requirements of the Company. The three fundamental criteria of a sound rate structure have been characterized as follows:

> ...(a) the revenue-requirement or financial need objective, which takes the form of a fair return standard with respect to private utility companies; (b) the fair-cost apportionment objective which invokes the principle that the burden of meeting total revenue requirements must be distributed fairly among the beneficiaries of the service; and (c) the optimum-use or consumer rationing objective, under which the rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between costs incurred and benefits received.

Bonbright, Principles of Public Utility Rates (1961), p. 292.

In considering UUCI's Application, the Commission must consider competing interests - the interests of the customers of the system to receive quality service and a quality product at a fair rate as well as the interest of the Company to have the opportunity to earn a fair rate of return. The Commission must give due consideration to UUCI's total revenue requirements, if determinable, comprised of both the opportunity to earn a fair return on equity as well as recover allowable operating costs. To accomplish this, the Commission must review evidence admitted into the record regarding the operating revenues and operating expenses of UUCI, in order to establish adequate and reasonable levels of revenues and expenses for the Company.

V. DISCUSSION OF THE EVIDENCE RECEIVED

A. Unbilled Sewer and Water Revenue

During the local public hearing in Piedmont, South Carolina and at the hearing held at the Commission's hearing room in Columbia, South Carolina, testimony was

received that the Company has unbilled sewer revenue. (Tr. 2 at 167-169). One customer stated that she had neighbors who did not receive a sewer bill for two years. Id. Mr. Metts testified at the hearing before the Commission on March 23, 2010, that he and two others approached the residents of Stonecreek subdivision to sign a petition for Spartanburg Water to provide service. (Tr. 5 at 314-315; 326-327; 330-331). He found neighbors who had not been billed for sewer service for three years. (Tr. 5 at 326). Initially he testified that this occurred in December 2007, but then recalled that he surveyed his neighbors in December 2008. (Tr. 5 at 354). Mr. Davis testified that he joined Mr. Metts in the canvassing of the neighborhoods, and that there were other individuals receiving service who were not billed. (Tr. 5 at 341-342).

Company witness Steven Lubertozzi testified that the Company had completed a survey in response to the testimony of Mr. Metts and Mr. Davis. (Tr. 6 at 758). Mr. Lubertozzi explained the results of the vacancy survey of the subdivisions Stonecreek, River Forest, and Canterbury, all within its service territory. For Stonecreek, out of 231 premises, 44 residents were receiving service but were not billed. For River Forest, out of 82 premises, 4 were receiving service but were not billed. For Canterbury, out of 151 premises, 3 were receiving service but were not billed. As a result of that survey of three subdivisions, the Company found 51 customers out of a total 464 billable customers who were receiving sewer service without being billed, which is roughly 11%. (Tr. 6 at 760-762). He testified that surveys of the entire UUCI system were being planned or begun,

but that they had not yet been completed.[3] (Tr. 6 at 774). Company witness Sasic later testified that the Company last conducted a survey approximately nine (9) months before to identify customers who are not being billed. (Tr. 6 at 854). She also testified that, going forward, the Company would conduct a vacancy survey every month. (Tr. 6 at 854).

The testimony of the public and Company witnesses calls into question the frequency and accuracy of the Company's vacancy surveys. However, we do agree with Ms. Sasic that such surveys should be conducted every month in each subdivision.

In its Application, the Company sought an increase in sewer revenues of $399,938. (Exhibit B, Page 4). However, based on the information from the recent vacancy survey conducted by the Company on the three subdivisions, if roughly 11% of the Company's 1,707 service units for sewer are not being billed, it would equate to roughly $86,952 in annual sewer revenue. ORS witness Stutz testified that using ORS adjustments[4] and Dr. Carlisle's recommended ROE of 10.06% resulted in a combined

[3] "Q: Following on the line of testimony regarding the surveys on the unbilled revenue, have you performed any surveys of other subdivisions?

A: No, I have not. I believe that some of those are in the works, currently. They may have started, you know, a couple of weeks ago, and some of the other ones have started, but they're not complete to the fact where the three where we had testimony at the night hearings about this problem came up, those were the three that were focused on.

Q And then, of course, Stone Creek from, I guess, yesterday?

A Correct.

Q: Is it your plan to ultimately do a survey of all your --I guess, all your systems?

A: Yes. I mean, we would obviously, starting with UUC, we would survey all of the homes out there for vacant premises where customers potentially would be taking service." (Tr. 6 at 773-774).

[4] With the exception of two adjustments involving uncollectibles and rate case expenses, UUCI witness Georgiev agreed with ORS's adjustments.

revenue increase of $235,299. (Tr. 6 at 958-959). Unbilled revenue of approximately $86,952 out of a combined revenue increase of $235,299 is material to this case.

Additionally, Mr. Morgan testified that ORS made adjustments to reflect 299 current service connections associated with the NGU campus. (Exhibit WJM-4, Hearing Exhibit 37). Mr. Haas testified that NGU does not inform UUCI when additional facilities at its campus are connected to the collection lines at NGU. (Haas Rebuttal, Page 3; Tr. 5 at 453). Currently UUCI is billing NGU 249 Single Family Equivalents ("SFEs").[5] Nonetheless when asked as to whether an on-site survey had been completed after Mr. Morgan's direct prefiled testimony was filed on March 8, 2010, Mr. Haas responded "no." (Tr. 5 at 521). He acknowledged that ORS's approach is technically correct and that the Company sought to include a modification to its tariff to reference DHEC Regulation 61-67, Appendix A. Specifically, the proposed tariff language is as follows:

> A Single Family Equivalent (SFE) shall be determined by using the South Carolina Department of [Health and] Environmental Control Guidelines for Unit Contributory Loadings for Domestic Wastewater Facilities 25 S.C. Code Ann. Regs. 61-67 Appendix A (Supp. 2005), as may be amended from time to time. Where applicable, such guidelines shall be used for determination of the appropriate monthly service and tap fee.

App. Ex. A, Page 7.

Mr. Morgan explained that using the DHEC wastewater loading guidelines is appropriate to arrive at a capacity demand from these facilities and a determination of the appropriate number of SFEs. If the number of SFEs is too low, the result is that other

[5] SFEs are a method of determining capacity demand for billing purposes.

ratepayers subsidize the system. Mr. Haas argued that a finite number of NGU students can occupy and use one facility at a time.[6] (Haas Rebuttal, Pages 4-5; Tr.5 at 454-455). However, where a campus is open and not closed, as is the case here, facilities may be in use by persons other than students which is why it is appropriate and nondiscriminatory to establish the proper number of SFEs based upon capacity demand. (Tr. 6 at 999).

Dr. Epting, President of NGU, testified that NGU made a commitment to UUCI to let the Company know if another facility was added to the campus. (Dr. Epting Surrebuttal, Page 1; Tr. 6 at 886). He also testified that the proposed increase to NGU would be detrimental to the operations of the university. (Tr. 6 at 878).

Given the testimony of the Company, Mr. Morgan on behalf of ORS, and the public witnesses, in particular, Mr. Metts, we find that the Company has failed to identify and bill customers who are using sewer and collection services. We note that the issue of unbilled sewer revenues was first raised at the Piedmont night hearing held on February 25, 2010. Mr. Metts testified at the hearing held at our offices on March 23, 2010, raising the same issue. On March 24, 2010, the Company, through the testimony of Mr. Lubertozzi, provided the results of the survey of three subdivisions. (Tr. 6 at 760-762). The Company provides sewer and collection services to a total of 12 subdivisions. (Application Exhibit C, Page 2 of 2).

The Commission has no means of determining the appropriate revenue requirement for sewer services because it is unknown whether the billing determinants include those customers who are receiving service but are not being billed. We asked

[6] We also note that the Company's proposed tariff states that a SFE shall be determined using the DHEC guidelines.

Mr. Lubertozzi whether the revenue figures provided by the Company included the billing determinants for those unbilled customers. (Tr. 6 at 788). Mr. Lubertozzi replied that a bill *could* have been sent to the address for the former occupant. (Tr. 6 at 788). *If* a bill had been sent, then UUCI would have booked and accrued the revenue even though it was not collected. (Tr. 6 at 817). Commissioner Wright inquired of Company witness Haas as to whether the unbilled sewer revenue would have an impact on the Company's decision to come in for a rate case:

> If you're coming in for a rate increase because revenues are being squeezed for some reason, and you're not collecting what's out there, don't you think there's a real potential issue there, why there's concern about how much -- you know, how many people are out there, how much money's on the table out here that's not being collected?

(Tr. 5 at 563).

Haas responded that he understood why this would be an issue, but contended that the Company suffers for its failure to bill sewer revenue and not its customers. We disagree where, as is the case here, the Company has not been able to demonstrate that the billing determinants include those vacant homes that in actuality are occupied by customers using the system. Commissioner Wright went on to question Witness Haas as to whether the amount actually collected would have an impact on determining the future revenue requirement and therefore affect the level of rates necessary to generate that future revenue requirement.

> ...you're approved for a certain revenue requirement, a total number of dollars to make...so you are basing your coming in for a rate case on that number, not on what you're actually collecting.

(Tr. 5 at 565-566). The witness could not answer the question. (Tr. 5 at 566.)

Further, under questioning by Chairman Fleming, Company witness Lubertozzi admitted that not every home marked as vacant, but with occupancy, necessarily constituted a billing determinant included in the test year. The exchange was as follows:

> Q: So, every one of those homes that are marked as vacant but have occupancy are receiving a bill of some kind?
> A: I couldn't say every one. That was just an example of where the billing determinants could have been included in the test year.

(Vol. 6 at 788).

Because we do not know whether the revenue requirement sought by the Company includes the billing determinants for those premises where a customer is receiving service but not billed, we cannot determine the future revenue requirement and in turn, cannot set a just and reasonable rate for sewer service.

We also note that the Company was willing to accept ORS's revenue imputation of 299 SFEs for NGU, if ordered by this Commission, but was not willing to conduct a survey of NGU to determine the appropriate number of SFEs that should be billed, even while acknowledging that NGU had in the past failed to apprise the Company of added facilities. (Tr. 5 at 453-455). It is the responsibility of the Company to determine the proper number of SFEs.

This Commission cannot properly determine the future revenue requirements for sewer operations, and, therefore must deny the requested rate increase as to sewer operations.

Unfortunately, the appropriate revenue requirement for water services is also in doubt. Witnesses living in the Trollingwood subdivision in Pelzer testified to billing irregularities. One customer who utilizes both water and wastewater services provided

by the Company, Ruth Wyatt, testified and documented that she was billed thirteen (13) times in 2008 (which is the test year in this case), and that the water gallonage billed was inconsistent with actual usage.[7] She was told by the Company that her meter had not been read between May and August of that year. (Tr. 1 at 29-35). Another customer, Elaine Odom, had normal water meter readings for two months, and then an excessive reading for a third month, again all in 2008. (Tr. 1 at 80-81). The evidence suggests that the Company is not reading water meters regularly, and, therefore, is not conducting the proper assessment of its water system to determine whether all water customers are being billed or billed correctly. Clearly, water billing by the Company is also irregular, and leads us to conclude that, in addition to being unable to determine future revenue requirements for sewer operations, we are also unable to determine future revenue requirements for water operations. Accordingly, we cannot determine the revenue requirement for the entire Company, and must therefore deny the requested rate increase.

Clearly, there are continuing problems with the Company's billing system. We hold and order that the Company shall investigate its customer billing procedures in both the water and wastewater areas, and shall take whatever steps are necessary to bill its customers on time and for proper usage. We trust that the Company will make every effort to put its billing procedures in order prior to submitting future rate applications.

B. Prorated Billing

It became clear during the hearing that the Company had issued prorated bills where the monthly billing was not within a window of 27 to 33 days. (Tr. 6 at 833-834).

[7] Wyatt's bill was entered into evidence as Hearing Exhibit No. 1.

The Company's tariffs provide a monthly rate for water and sewer service. If the monthly bill is more than 33 days, however, the Company's billing system prorated the bill resulting in an overcharge to the customer. Company witness Sasic testified that on the next month's billing, the prorated charges should be reversed. (Tr. 6 at 834-835). However, Hearing Exhibit 33 shows twelve months' billing for Mr. Davis and that the Company did not reverse the prorated charges. (Tr. 6 at 836).

We find that the Company is not authorized to keep the prorated charges that exceed the monthly Commission approved rate for service and require the Company to refund those prorated amounts billed in 2008, 2009, and 2010 to the extent such charges were billed.[8]

C. Notification Fee

Commission Regulation 103-535.1 provides that the utility must give thirty days written notice to the customer, by certified mail with copies forwarded to DHEC and ORS, before any sewerage service may be discontinued. The Company's current rate schedule provides that the Company may impose a fee of $4.00 to defray the clerical and mailing costs of such notices to the customers creating the cost. The Company argues that it has been authorized to impose this fee since at least 1983, and has not increased the current fee of $4.00 since 1987. The Company seeks to increase the notification fee to $24.00 because of the increase in postal rates. Mr. Williams testified that the cost of certified mail has increased from $1.67 ($0.22 postage + $0.75 certified mail fee + $0.70 return receipt fee) to $5.54 ($0.44 postage + $2.80 certified mail fee + $2.30 return

[8] The Company submitted late-filed Hearing Exhibit No. 34, Part 2 and indicated that credits either were issued or will be issued to customers who were overcharged.

receipt fee) since 1987. Additionally, he states that the Company's administrative costs to process and provide this required notice is $18. (Williams Direct Testimony, Page 7; Tr. 6 at 678).

ORS objected to the proposed $24.00 rate and instead proposed $6.00. ORS notes that the fee imposed by the U.S. Postal Service for Certified/Return Receipt mailings increased from $3.74 in 2001 to $5.54 in 2009. Any increased cost associated with administrative/clerical time incurred by UUCI to provide the required notices is already included in the cost of administrative/clerical time in its expenses under general expenses for salary and wages. Therefore, ORS recommended that the notification fee be $6.00 for each of the required certified mailings and not $24.00. (Morgan Direct Testimony, Page 11; Tr. 6 at 695). UUCI argued that to do so would in effect require other customers to subsidize the costs associated with sending out the notification and noted that another utility, Palmetto Utilities, Inc., has an approved rate of $25.00. (Tr. 6 at 696; 706-707).

ORS witness Morgan testified that ORS is concerned UUCI is attempting to recover the same administrative and clerical costs twice with the increase in the customer notification fee. He noted that Mr. Williams did not demonstrate in his rebuttal testimony that the administrative and clerical costs associated with sending customer notices are above and beyond the administrative and clerical costs included in its rate increase request or that additional employees are needed or will be hired by UUCI to perform this function. (Morgan Surrebuttal Testimony, Page 6; Tr. 6 at 986).

We approve the rate of $6.00 as a notification fee per notification letter that the Company is required to make in compliance with Commission Regulation 103-535.1. The $18.00 administrative cost is unsubstantiated and appears inordinately high.

D. Modifications to Certain Terms and Conditions of Water and Sewer Service Tariffs

The Company proposed several modifications to the terms and conditions of its water and sewer service tariffs. The first modification is to the rate schedule provisions pertaining to service provided to rental units and is set out at page one (1) of the water schedule and page four (4) of the sewer schedule. The Legislature has enacted statutory provisions restricting the ability of any utility – whether governmental or investor owned – to require a landlord in a building with three or fewer rental units and served by a single meter or connection to be financially responsible for utility service provided to a tenant that is the utility's customer. The proposed modification is intended to bring the Company's rate schedule in line with the current law and to reflect that, where rental premises with single connections or meters have three or fewer tenants, the Company will not enter into customer relationships with tenants. No party objected to the proposed modification. We approve the proposed language modification.

The second proposed modification is to the water rate schedule and consists of a new section six (6) beginning on page two (2). Regulations promulgated by DHEC under the State Safe Drinking Water Act require the elimination of cross-connections to public water systems which have the potential for contaminating safe drinking water. Typically, a cross-connection consists of a separate water irrigation line, which may or may not be

metered. The DHEC regulations prohibit any person from installing, permitting to be installed, or maintaining a cross-connection, unless there is an approved backflow prevention device installed between the public water system and the potential source of contamination. DHEC regulations further require that certain backflow prevention devices be inspected annually by a DHEC certified tester. The modification to the Company's rate schedule provides notice to customers that any cross-connections must have an approved backflow prevention device, that customers are responsible for the annual inspection, and that customers must provide to the Company the report and results of inspection no later than June 30th annually. In the event that a customer does not comply with the requirement to perform annual inspections, after 30 days' written notice, the Company may disconnect water service.

ORS does not oppose the proposed language modification requiring water customers to conduct cross-connection testing pursuant to 24A S.C. Code Ann. Regs. 61-58.7.F (8). However, ORS witness Willie Morgan testified that this non-opposition is predicated upon the condition that the Company be required to provide customers a 30-day advance written notice of the recurring annual date by which the customers must have their backflow prevention device tested by a licensed, certified tester. Furthermore, the Company should be required to include a reference to the DHEC website and the Company's phone number on the notice to respond to customer inquiries. The Company objected to ORS's position that advance written notice to customers be provided. However, we approve the language modification subject to the conditions proposed by ORS. We find that the Company should provide customers a 30-day advance written

notice of the recurring annual date by which the customer must have their backflow prevention device tested by a licensed, certified tester, along with the Company's contact information.

The third modification is to specify that, for the purposes of determining tap fees and the appropriate monthly service fee, the Company will follow the pertinent DHEC regulations relating to SFEs. By following these guidelines, the Company is able to provide uniformity in the calculation of its charges. Additionally, the Company proposes to include language pertaining to the terms and conditions for extensions of its facilities for service. This language clarifies that potential customers who are willing to pay all costs associated with interconnecting with the Company and agree to receive service in accordance with the applicable guidelines and standards shall not be denied service unless sufficient capacity is not available on the Company's system or unless such service is restricted by DHEC or other governmental entity. Additionally, this language clarifies that the Company is not obligated to construct additional capacity which would be required to serve a customer in the absence of an agreement for the payment of costs. No party objected to the proposed language modification. We approve the proposed language modification to specify that the Company will follow pertinent DHEC regulations relating to SFEs for determining the appropriate monthly service and tap fee.

The Company submitted proposed language regarding electronic billing. Mr. Williams testified that electronic billing will provide customers with additional billing options which will allow for electronic billing and payment. Electronic billing would not be required of all customers, but would only be provided as a service if a customer

chooses and when it is within the capability of the Company. Mr. Williams testified that the customers would appreciate the opportunity to receive and pay their bills online and that they would benefit from the ease and convenience of maintaining their utility account online. ORS witness Willie Morgan testified that ORS is not opposed to the proposed addition of language offering an electronic bill to the customer. ORS's non-opposition is predicated upon the condition that the Company be required to provide customers a monthly electronic notice via email of the bill statement availability and the web address of its location. We approve the proposed language modification to allow the Company to offer its customers electronic billing, but require the Company to provide its customers a monthly electronic notice via email of the bill statement availability and the web address of its location. We note the Company did not object to this requirement.

E. Water Quality Concerns

At the local public hearing held in Simpsonville, South Carolina on February 23, 2010, several customers in the Trollingwood subdivision complained about water quality. Ms. Conover, Ms. Wyatt, and Ms. Odom, among others, testified that the water is not clear and in some cases has left a residue and ruined fixtures. (Tr. 1 at 14, 26-28, 29-33, 80-81). One customer, Mr. Stamoulis, testified that he had installed a reverse osmosis system (a reverse osmosis system is a filtering system attached to the home) and as a result did not experience the same problems described by his neighbors in the public hearing. (Tr. 1 at 60-62).

ORS Witness Willie Morgan testified that UUCI provides adequate water supply services and that safe drinking water standards are being met according to recent DHEC

sanitary survey reports. (Morgan Direct Testimony, Page 6; Tr. 6 at 969). Mr. Morgan recommended that UUCI increase system flushing to at least once per month. (Morgan Direct Testimony, Page 7; Tr. 6 at 970). Mr. Haas testified that the Company will increase flushing to once per month as recommended by ORS; however, he stated that because the groundwater which UUCI pumps from its wells serving the Trollingwood subdivision has a very high iron content, removal of all iron is not possible (Haas Rebuttal Testimony, Page 17; Tr. 5 at 467). He went on to state that while flushing may improve color, it will not eliminate the problem. Id. The Company also asserts that it has invested in several improvements to the Trollingwood water system, including upgrades to its filter system. (Haas Rebuttal Testimony, Page 17; Tr. 5 at 467).

Even though it is apparent that flushing alone may improve but not eliminate the problem of the iron content in the water in Trollingwood, it appears that the Company is at least recognizing that aesthetics of water are important to customers. In addition to upgrading the filter system, UUCI is volunteering to increase flushing of the lines in that subdivision to once per month. This response is a reasonable proposal, and shows that the Company is attempting to address the problem. We adopt the proposal and look forward to reviewing the Company's progress in the area of water aesthetics in future cases, recognizing that the aesthetic quality of the water impacts customer service.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After thorough consideration of the entire record in the UUCI hearing, including the testimony and all exhibits, and the applicable law, the Commission makes the following findings of fact and conclusions of law:

1. UUCI is a corporation organized and existing under the laws of the State of South Carolina and authorized to do business in the State of South Carolina.

2. UUCI is a public utility as defined by S.C. Code Ann. §58-5-10(4) (Supp. 2009), providing water and sewer service to the public for compensation in certain areas of South Carolina and is subject to the jurisdiction of the Commission.

3. By statute, the Commission is vested with jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the duty, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by every public utility in this State. S.C. Code Ann. § 58-5-210 (1976).

4. UUCI's current rates and charges for both water and sewer were approved by the Commission in Docket No. 2000-210-W/S in Order No. 2004-254, dated May 19, 2004.

5. The appropriate test year period for purposes of this proceeding is the twelve-month period ending December 31, 2008. No party contested the use of this test year as proposed by UUCI in its application.

6. In accordance with the Application filed in this case, the Commission will use the rate of return on rate base methodology in determining the reasonableness of UUCI's proposed rates. The Public Service Commission has wide latitude in determining an appropriate rate-setting methodology. Heater of Seabrook, 324 S.C. at 64, 478 S.E.2d at 830. No party has raised any objection to the use of the return on rate base methodology in this proceeding.

7. By its application, UUCI requested an increase in rates and charges for its combined operations to produce net operating income of $431,016 (Exhibit B to Application), of which, $37,109 is for water operations and $393,907 is for sewer operations. By the use of accounting and pro forma adjustments, ORS computed Net Income for Return of the requested increase to be $389,941 (total operating revenues of $1,327,930 less operating expenses of $940,796 and adding customer growth of $2,807). Both UUCI and ORS calculations of the amount of the proposed increase were based on the Proposed Schedule of Rates and Charges contained in Exhibit A to the Company's Application.

8. Based on the testimony of Company witnesses Lubertozzi, Haas and Sasic, ORS witness Mr. Morgan, and the public witnesses, the Commission is unable to determine a revenue requirement for sewer or for water operations. Without a revenue requirement, the Commission cannot establish just and reasonable rates for the Company's operations; therefore, the Commission grants no increase.

9. There are continuing problems with the Company's billing system. The Company shall investigate its customer billing procedures in both the water and wastewater areas and take whatever steps are necessary to bill its customers on time and for proper usage.

10. The appropriate rate of return on equity, rate of return on rate base, and operating margin for UUCI are 10%, 9.31%, and 8.34%, respectively, as decreed in Order No. 2004-254, dated May 19, 2004.

11. We direct the Company to refund those prorated charges billed to customers in 2008, 2009, and 2010, where the Company collected more than the Commission approved monthly service rates. The Company shall file a report within sixty (60) days of the date of this Order with the Commission and a copy to ORS detailing the credits or refunds that were issued to customers.

12. This Commission required UUCI to keep its books and records in accordance with the NARUC Uniform System of Accounts in Order No. 2002-214. The Company recently converted its books and records to a new accounting system. Ms. Stutz testified that the Company is not maintaining its books and records in accordance with the NARUC Uniform System of Accounts. (Stutz Direct and Surrebuttal, Pages 12 and 2; Tr. 6 at 947 and 952). The Company is directed to make any necessary adjustments to its accounting system to conform to the NARUC Uniform System of Accounts. If ORS and the Company disagree on whether the Company is conforming its accounting system to the NARUC Uniform System of Accounts, the two parties shall attempt to resolve their differences. ORS is requested to investigate the Company's compliance regarding the NARUC Uniform System of Accounts and report to this Commission with the results of the investigation within 120 days of the date of the issuance of this Order.

13. Section 58-5-720 (Supp. 2009) requires that UUCI maintain bonds for water and wastewater operations. ORS Witness Morgan testified that the face amount of UUCI's bond should be $100,000 for water operations and $350,000 for wastewater

operations. We find that UUCI's bond should be in the amount of $100,000 for water operations and in the amount of $350,000 for wastewater operations.

14. We adopt certain modifications to the terms and conditions of water and wastewater service. We accept the Company's proposed language regarding service provided to rental units; we accept the Company's proposed language that it will follow pertinent DHEC regulations relating to SFEs; and we accept the Company's proposed language as modified by ORS regarding cross-connections, however, with 30 days advance notice prior to the date for testing of the backflow prevention devices, as proposed by ORS; and we accept the Company's proposed language regarding electronic billing with ORS's condition that the Company provide customers a monthly electronic notice via email of the bill statement availability and the web address of its location.

15. We find that a notification fee of $6.00 is reasonable due to the increased cost of postage.

IT IS THEREFORE ORDERED THAT:

1. UUCI is not entitled to rate relief for its sewer or water operations. As such, the Company shall continue to have an opportunity to earn a rate of return on equity, rate of return on rate base, and operating margin of 10%, 9.31%, and 8.34%, respectively, as decreed in Order No. 2004-254, dated May 19, 2004, and shall be entitled to continue to charge such rates as approved therein.

2. The Company shall investigate its customer billing procedures in both the water and wastewater areas and take whatever steps are necessary to bill its customers on time and for proper usage.

3. There is no increase to rates; however, the notification fee may be increased to $6.00 per notice.

4. The Company shall continue to maintain current performance bonds in the amounts of $100,000 for water operations and $350,000 for wastewater operations pursuant to S.C. Code Ann. § 58-5-720 (Supp. 2009).

5. The Company's books and records shall be maintained according to the NARUC Uniform System of Accounts. The Company is directed to make any necessary adjustments to its accounting system to conform to the NARUC Uniform System of Accounts. If ORS and the Company disagree on whether the Company is conforming its accounting system to the NARUC Uniform System of Accounts, the two parties shall attempt to resolve their differences. ORS is requested to investigate the Company's compliance in this area and report its findings to this Commission within one hundred twenty (120) days of the date of this Order.

6. The Company shall refund those prorated charges billed to customers in 2008 2009, and 2010, where the Company collected more than the Commission approved monthly service rates. The Company shall file a report with the Commission and a copy to ORS detailing the credits or refunds issued to customers within sixty (60) days of the date of this Order.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Elizabeth B. Fleming, Chairman

ATTEST:

John E. Howard, Vice Chairman

(SEAL)